

FILED

RECEIVED
Harold S. Maranus, Clerk
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

1 L. Scott Keehn, SBN 61691
2 Leslie F. Keehn, SBN 199153
3 **KEEHN & ASSOCIATES**
4 A Professional Corporation
5 402 West Broadway, Suite 1210
6 San Diego, California 92101
7 Telephone: (619) 400-2200

08 APR 18 PM 12:00

MAR 12 2008

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

DOCKETED

DATE

INITIAL

9/1/08

DEPUTY

Attorneys for Petitioning Creditors

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

'08 CV 713 JAH WMc

In Re:

FRANCIS J. LOPEZ,

Alleged Debtor.

Case No. 05-05926-PBINV

BANKRUPTCY APPEAL NO. 1

**ELECTION TO HAVE APPEAL HEARD
BY THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT
OF CALIFORNIA**

Petitioning Creditors Alan Stanly, Northwest Florida Daily News, and Alternative
Resolution Center, hereby elect to have the appeal from the "*Order for Relief and Order Directing
Debtor to File Schedules and Statement of Financial Affairs*" entered by the Bankruptcy Court on
January 28, 2008, the ruling granting the Petitioning Creditors' Motion for Terminating Sanctions
heard on January 28, 2008, and the "*Order on Motion for Summary Judgment*" entered by the
Bankruptcy Court on September 26, 2006, heard by the United States District Court for the
Southern District of California pursuant to 28 U.S.C. §158(c)(1)(B).

Dated: February 27, 2008

KEEHN & ASSOCIATES
A Professional Corporation

By: //s/ L. Scott Keehn

L. Scott Keehn
Attorneys for Petitioning Creditors

**U.S. Bankruptcy Appellate Panel
of the Ninth Circuit**

125 South Grand Avenue, Pasadena, California 91105
Appeals from Central California (626) 229-7220
Appeals from all other Districts (626) 229-7225

In Re: Francis J. Lopez

BAP No.: SC-08-1071

Bk. Ct. No.: 05-5926-PBINV

ADV. NO.:

Appeal No: 1

NOTICE OF TRANSFER OF APPEAL TO DISTRICT COURT

A party to the appeal has timely filed an objection to the disposition of this matter by the Bankruptcy Appellate Panel. See 28 USC Section 158. Consequently, this appeal is herewith transferred to San Diego District Court.

Please acknowledge receipt of the case file listed above by signing and returning a copy of this transmittal form.

Harold S. Marenus, BAP Clerk

By: Vicky Jackson-Walker, Deputy Clerk

Date: March 24, 2008

Resent: 4/14/08

Please acknowledge receipt of
the case file listed above.

Dated: '08 CV 713 JAH WMc

Signed: J. HINKLE 4/16/08
District Court Deputy

Assigned District Court No.

'08 CV 713 JAH WMc

cc: Bankruptcy Court
All Parties

FRANCIS J LOPEZ
Appellant

M. Jonathan Hayes, Attorney
Direct: (818) 710-3656
Fax: 818 710-3659
[COR LD NTC Retained]
Ste# 840
21800 Oxnard St.
Woodland Hills, CA 91367-1574

v.

ALAN STANLEY
Appellee

L. Scott Keehn, Esq.
[NTC Retained]
KEEHN & ASSOC, APC
Firm: 619/400-2200
402 W. Broadway
San Diego, CA 92101

1 L. Scott Keehn, SBN 61691
Leslie F. Keehn, SBN 199153
2 **KEEHN & ASSOCIATES**
A Professional Corporation
3 402 West Broadway, Suite 1210
San Diego, California 92101
4 Telephone: (619) 400-2200

5 Attorneys for Petitioning Creditors

6
7
8 **UNITED STATES BANKRUPTCY COURT**
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**
10

11 In Re:

12 FRANCIS J. LOPEZ,

13 Alleged Debtor.

Case No. 05-05926-PBINV

14 **PROOF OF SERVICE**

15 Judge: The Honorable Peter W. Bowie
16 Ctrm: 4
17
18
19

20 I, the undersigned, declare that I am over the age of eighteen years and not a party to this
21 cause. I am employed in, or am a resident of, the County of San Diego, California, and my
22 business address is: Keehn & Associates, APC, 402 West Broadway, Suite 1210, San Diego,
23 California.

24 On the date shown below, I caused to be served the following document(s):

25 **ELECTION TO HAVE APPEAL HEARD BY THE UNITED STATES DISTRICT**
26 **COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

27 [] BY PERSONAL SERVICE: I placed a true copy of the above document(s) in a sealed
28 envelope clearly labeled to identify the party being served, and personally caused said such

KEEHN & ASSOCIATES, APC
ATTORNEYS AND COUNSELORS AT LAW
402 WEST BROADWAY, SUITE 1210
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 400-2200 - FACSIMILE (619) 400-2201

KEHN & ASSOCIATES, APC
ATTORNEYS AND COUNSELORS AT LAW
402 WEST BROADWAY, SUITE 1210
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 400-2200 · FACSIMILE (619) 400-2201

1 envelope to be personally delivered on each addressee named hereafter:

2 [] BY FACSIMILE AND MAIL: I declare that upon the prior agreement of the party being
3 served, I served the above named documents by facsimile transmission during usual office
4 hours from facsimile number 619-400-2201, to a facsimile machine maintained by the
5 person on whom it is served and that the transmission was reported as complete and
6 without error. Thereafter, I mailed (by first-class mail, postage prepaid) a true copy to
7 each addressee named hereafter:

8 [✓] BY MAIL: I declare that I am readily familiar with the business practice for collection and
9 processing of correspondence for mailing with the United States Postal Service, that the
10 correspondence shall be deposited with the United States Postal Service this same day in
11 the ordinary course of business; and that a true copy was placed in a separate envelope,
12 with postage thereon fully prepaid for each addressee named hereafter:

13 M. Jonathan Hayes
14 Law Office of M. Jonathan Hayes
21800 Oxnard Street, Suite 840
15 Woodland Hills, CA 91367

16 I declare under penalty of perjury under the laws of the United States that the foregoing is
17 true and correct.

18 Executed on February 27, 2008.

19
20 //s// Cynthia K. Lay
21 CYNTHIA K. LAY
22
23
24
25
26
27
28

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West F Street, San Diego, California 92101-6991

(619) 557-5620

FAX: (619) 557-5536

TRANSMITTAL MEMORANDUM

To: BANKRUPTCY APPELLATE PANEL OF THE NINTH CIRCUIT
125 S. Grand Avenue
Pasadena, California 91105

BAP#SC-08-1071

From: BARRY K. LANDER, Clerk District/Office No. 974-3

CASE NAME Francis J. Lopez		BANKRUPTCY NO. 05-5926-PBINV	
		ADVERSARY NO.	
		APPEAL NO. 1	
		BANKRUPTCY JUDGE Peter Bowie	
		DATE BANKRUPTCY FILED 6/30/05	
DATE OF ENTRY OF APPEALED ORDER: 1/28/08	NOTICE OF APPEAL FILED ON: 2/7/08	FEE PAID: YES	NOTICE OF REFERRAL TO BAP MAILED ON: February 8, 2008

DATED: February 8, 2008

Barry K. Lander, Clerk

By: *Kurt Herbold*, Deputy Clerk
Kurt Herbold

FILED

February 8, 2008

CLERK, U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA
325 West "F" Street, San Diego, California 92101-6991

In Re

Francis J. Lopez

Debtor.

BANKRUPTCY NO. 05-5926-PBINV

Frances Lopez (Appellant)

v.

Alan Stanly (Appellee)

BK APPEAL NO. 1
ASSIGNED TO JUDGE Peter Bowie

**NOTICE OF REFERRAL OF APPEAL TO BANKRUPTCY APPELLATE PANEL
COMBINED WITH SERVICE OF NOTICE OF APPEAL**

TO: M. Jonathan Hayes, 21800 Oxnard St., Ste. 840, Woodland Hills, CA 91367,
L. Scott Keehn, KEEHN & Assoc. APC, 402 W. Broadway, Ste. 1210, San Diego, CA 92101
United States Trustee, Dept. of Justice, 402 W. Broadway, Ste. 600, San Diego, CA 92101

NOTICE IS HEREBY GIVEN that a Notice of Appeal has been filed by Frances Lopez with the Clerk of the Bankruptcy Court. By virtue of orders of the Judicial Council of the Ninth Circuit and the District Court for this district, the above appeal has been referred to the United States Bankruptcy Appellate Panel of the Ninth Circuit (BAP).

Any party desiring to object to such referral must do so in conformity with the foregoing orders and their provisions for reference to the BAP, a copy thereof being hereto attached.

For further information, you may contact the Clerk of the United States Bankruptcy Appellate Panel at 125 S. Grand Avenue, Pasadena, California 91105 or by calling (626) 229-7225.

I hereby certify that on this date copies of the Notice of Appeal and the within Notice of Referral were mailed to the above-named person(s).

DATED: February 8, 2008

Barry K. Lander, Clerk

By: Kurt Herbald, Deputy Clerk
Kurt Herbald

1 M. Jonathan Hayes (Bar No. 90388)
2 **Law Office of M. Jonathan Hayes**
3 21800 Oxnard St, Suite 840
4 Woodland Hills, CA 91367
5 Telephone: (818) 710-3656
6 Facsimile: (818) 710-3659
7 jhayes@polarisnet.net

Case # : 05-05926-PBAPK
Debtor.: FRANCIS J. LOPEZ
Judge.: PETER BOWIE
Chapter: APBK

Filed : February 07, 2008 12:48:18
Deputy : K DURAN
Receipt: 197229
Amount : \$255.00

8 Attorneys for Alleged Debtor Francis Lopez

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10
11 **UNITED STATES BANKRUPTCY COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**
13 **SAN DIEGO DIVISION**

14 In Re:

15 FRANCIS J. LOPEZ,
16
17 Alleged Debtor

) CASE NO. 05-05926-PBINV

) Involuntary Chapter 7

) **NOTICE OF APPEAL BY ALLEGED**
) **DEBTOR TO ORDER FOR RELIEF**

18
19 Alleged Debtor Francis Lopez hereby appeals under 28 U.S.C. § 1291 from the
20 judgment, order, or decree of Judge Peter Bowie granting an Order for Relief in this
21 Involuntary Case. A copy of the Order is attached hereto. This appeal includes appealing
22 from the ruling granting the Motion for Terminating Sanctions heard on January 28, 2008
23 for which no separate Order was entered as well as the Order Denying the Motion for
24 Summary Judgment brought by the Debtor and Granting the Motion for Summary
25 Judgment brought by petitioning creditor Alan Stanly. The Order for Relief was entered
26 on January 28, 2008. The Order re Summary Judgment was entered on September 26,
27 2006 and is also attached hereto.
28

1 The names of all parties to the judgment, order, or decree appealed from and the
2 names, addresses, and telephone numbers of their respective attorneys are as follows:

3
4 **Atty for Alleged Debtor Francis Lopez**

5 M. Jonathan Hayes
6 21800 Oxnard St., Suite 840
7 Woodland Hills, CA 91367
(818) 710-3656
(818) 710-3659 fax

8 **Atty for Petitioning Creditor, Alan Stanly**

9 L. Scott Keehn
10 KEEHN & Assoc, APC
11 402 W. Broadway, Suite 1210
12 San Diego, CA 92101
(619) 400-2200
(619) 400-2201 fax

13
14
15
16 Dated: February 6, 2008

Respectfully submitted

17
18 By: 

19 M. Jonathan Hayes
20 Attorneys for Reorganized Debtor,
21 Urban Hotels, Inc.
22
23
24
25
26
27
28

CSD 1127 [07/01/96]

ENTERED <u>1/28/08</u>
FILED
JAN 28 2008
CLERK, U.S. BANKRUPTCY COURT SOUTHERN DISTRICT OF CALIFORNIA
BY <u>104</u> DEPUTY

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West "F" Street, San Diego, California 92101-6991

In Re

FRANCIS J. LOPEZ

BANKRUPTCY NO. 05-05926-B7

Debtor.

**ORDER FOR RELIEF AND ORDER DIRECTING DEBTOR
TO FILE SCHEDULES AND STATEMENT OF FINANCIAL AFFAIRS**

On consideration of the involuntary petition filed by Alan Stanly, Northwest Florida Daily News, and Alternative Resolution Center on JUNE 30, 2005, and the summons issued thereon having been served on JUNE 30, 2005, and no answer or other pleading in response thereto having been timely filed, an ORDER FOR RELIEF under Chapter 7 of Title 11 of the United States Code is GRANTED.

IT IS ORDERED that the Debtor file with the Court, WITHIN 15 DAYS of the entry of this order, the schedules and statements required by Federal Rule of Bankruptcy Procedure 1007(b) and (c).

DATED: JAN 28 2008


Judge, United States Bankruptcy Court

CERTIFICATE OF MAILING

I hereby certify that on this date a copy of the within order was mailed to the following parties in interest, namely:

FRANCIS J. LOPEZ, 310 Sand Myrtle Trail, Destin, FL 32541-3429
M. Jonathan Hayes, Law Office of M. Jonathan Hayes, 21800 Oxnard St., Suite 840, Woodland Hills, CA 91367
L. Scott Keehn, Keehn & Associates, APC, 402 West Broadway, Suite 1210, San Diego, CA 92101
Alan Stanly, 1569 Berkshire Court, San Marcos, CA 92069
Northwest Florida Daily News, 200 Racetrack Rd., Ft. Walton Beach, FL 32549
Alternative Resolution Center, 11601 Wilshire Blvd., Suite 1950, Los Angeles, CA 90025
United States Trustee, Dept. of Justice, 402 W. Broadway, Ste. 600, San Diego, CA 92101

DATED: JAN 28 2008

Barry K. Lander, Clerk

By:  Deputy Clerk

CSD 1127

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

Francis J Lopez

DEFENDANTS

FILED
'08 CV 713 JAH WMC
08 APR 18 AM 11:59
CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Alan Stanley

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

M Jonathan Hayes
Law Office of M Jonathan Hayes
21800 Oxnard St; Suite 840
Woodland Hills, CA 91367
(818)710-3656

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| | PT | DEF | | PT | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 USC 158

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input checked="" type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(e)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prisoner Conditions			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE

SIGNATURE OF ATTORNEY OF RECORD

4/16/08

[Signature]